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HOUSE BILL 246

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Edward C. Sandoval

AN ACT

RELATING TO PUBLIC RECORDS; CREATING AN EXCEPTION TO THE RIGHT
TO INSPECT PUBLIC RECORDS FOR FILED MILITARY DISCHARGE PAPERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 14-2-1 NMSA 1978 (being Laws 1947,
Chapter 130, Section 1, as amended) is amended to read:

"14-2-1. RIGHT TO INSPECT PUBLIC RECORDS--EXCEPTIONS.--

A. Every person has a right to inspect public
records of this state except:

(1) records pertaining to physical or mental
examinations and medical treatment of persons confined to an
institution;

(2) letters of reference concerning
employment, licensing or permits;

(3) letters or memorandums that are matters of

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1 opinion in personnel files or students' cumulative files;

2 (4) law enforcement records that reveal
3 confidential sources, methods, information or individuals
4 accused but not charged with a crime. Law enforcement records
5 include evidence in any form received or compiled in connection
6 with a criminal investigation or prosecution by a law
7 enforcement or prosecuting agency, including inactive matters
8 or closed investigations to the extent that they contain the
9 information listed ~~[above]~~ in this paragraph;

10 (5) as provided by the Confidential Materials
11 Act;

12 (6) trade secrets, attorney-client privileged
13 information and long-range or strategic business plans of
14 public hospitals discussed in a properly closed meeting;

15 (7) public records containing the identity of
16 or identifying information relating to an applicant or nominee
17 for the position of president of a public institution of higher
18 education;

19 (8) tactical response plans or procedures
20 prepared for or by the state or a political subdivision of the
21 state, the publication of which could reveal specific
22 vulnerabilities, risk assessments or tactical emergency
23 security procedures that could be used to facilitate the
24 planning or execution of a terrorist attack; ~~[and]~~

25 (9) discharge papers of a veteran of the armed

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1 forces of the United States filed with the county clerk before
2 July 1, 2003 that have not been commingled with other recorded
3 documents. These papers will be available only to the veteran
4 who filed the papers, the veteran's next of kin, the deceased
5 veteran's properly appointed personal representative or
6 executor, a person holding the veteran's general power of
7 attorney or a person designated in writing by the veteran to
8 receive the records;

9 (10) discharge papers of a veteran of the
10 armed forces of the United States filed with the county clerk
11 before July 1, 2003 that have been commingled with other
12 recorded documents if the veteran has recorded a request for
13 exemption from public disclosure of discharge papers with the
14 county clerk. If such a request has been recorded, the records
15 may be released only to the veteran filing the papers, the
16 veteran's next of kin, the deceased veteran's properly
17 appointed personal representative or executor, a person holding
18 the veteran's general power of attorney or a person designated
19 in writing by the veteran to receive the records;

20 (11) discharge papers of a veteran of the
21 armed forces of the United States filed with the county clerk
22 after June 30, 2003. These papers will be available only to
23 the veteran who filed them, the veteran's next of kin, the
24 deceased veteran's properly appointed personal representative
25 or executor, a person holding the veteran's general power of

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1 attorney or a person designated in writing by the veteran to
2 receive the records; and

3 [~~9~~] (12) as otherwise provided by law.

4 B. At least twenty-one days before the date of the
5 meeting of the governing board of a public institution of
6 higher education at which final action is taken on selection of
7 the person for the position of president of the institution,
8 the governing board shall give public notice of the names of
9 the finalists being considered for the position. The board
10 shall consider in the final selection process at least five
11 finalists. The required notice shall be given by publication
12 in a newspaper of statewide circulation and in a newspaper of
13 county-wide circulation in the county in which the institution
14 is located. Publication shall be made once and shall occur at
15 least twenty-one days and not more than thirty days before the
16 described meeting.

17 C. Postponement of a meeting described in
18 Subsection B of this section for which notice has been given
19 does not relieve the governing body from the requirement of
20 giving notice of a rescheduled meeting in accordance with the
21 provisions of Subsection B of this section.

22 D. Action taken by a governing body without
23 compliance with the notice requirements of Subsections B and C
24 of this section is void.

25 E. Nothing in Subsections B through D of this

1 section prohibits a governing body from identifying or
2 otherwise disclosing the information described in this
3 section. "

4 Section 2. EFFECTIVE DATE. --The effective date of the
5 provisions of this act is July 1, 2004.

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